

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO
4 PLAINTIFF(S): IRMA JIMENEZ, Individually, and as
5 Successor-in-Interest to DOMINGA OLGUIN, Deceased
6 _____
7 _____

7 Plaintiffs

8 v.
9

10 ☐ AMYLIN PHARMACEUTICALS, LLC,
11 ☐ ELI LILLY AND COMPANY,
12 ☒ MERCK SHARP & DOHME CORP.,
13 ☐ NOVO NORDISK INC.,

13 (Check all the above that apply)

14 Defendants

Pertains To Civil Action No.:

In Re: Incretin-Based Therapies
Products Liability Litigation

MDL NO. 2452

**SHORT FORM COMPLAINT
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

15 **SHORT FORM COMPLAINT FOR DAMAGES**

16 COMES NOW the Plaintiff(s) named herein, and for Complaint against the
17 Defendants named herein, incorporates and fully adopts the Master Form Complaint
18 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows
19 the Court as follows:

20 **JURISDICTION AND VENUE**

21 1. Jurisdiction in this Complaint is based on:

22 ☒ Diversity of Citizenship

23 ☐ Other (As set forth below, the basis of any additional ground for
24 jurisdiction must be pleaded in sufficient detail as required by the
25 applicable Federal Rules of Civil Procedure):
26 _____.

27 2. District Court and Division in which you might have otherwise filed
28 absent the direct filing order entered by this Court: United States District Court - Western District

3. Plaintiff(s) further adopts the allegations contained in the following paragraphs of the Jurisdiction and Venue section of the Master Complaint:

☒ Paragraph 10;

☒ Paragraph 11;

☐ Paragraph 12;

☒ Paragraph 13;

☒ Paragraph 14;

☒ Paragraph 15; and/or

☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail in numbered paragraphs (numbered to begin with 3(a)) as required by the applicable Federal Rules of Civil Procedure): _____

PLAINTIFF/INJURED PARTY INFORMATION

4. Injured/Deceased Party's Name: Dominga Olguin
(the "Injured Party").

5. Any injury (or injuries) suffered by the Injured Party in addition to those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to have been caused by the drug(s) ingested as set forth below (put "None" if applicable): None.

6. Injured Party's spouse or other party making loss of consortium claim: N/A.

7. Other Plaintiff(s) and capacity, if Injured Party is deceased or otherwise incapacitated (i.e., administrator, executor, guardian, representative, conservator, successor in interest): Irma Jimenez - Successor-in-Interest.

8. City(ies) and State(s) of residence of Injured Party at time of ingestion of the Drug(s): Pecos, TX.

1 9. City and State of residence of Injured Party at time of pancreatic
2 cancer diagnosis (if different from above): N/A.

3 10. City and State of residence of Injured Party at time of diagnosis of
4 other Injury(ies) alleged in Paragraph 5 (if different from above): N/A
5 _____.

6 11. If applicable, City and State of current residence of Injured Party (if
7 different from above): N/A.

8 12. If applicable, City and State of residence of Injured Party at time of
9 death (if different from above): N/A.

10 13. If applicable, City and State of current residence of each Plaintiff,
11 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,
12 guardian, representative, conservator, successor in interest): Pecos, TX
13 _____
14 _____.

15 14. Check box(es) of product(s) (the "Drugs") for which you are making
16 claims in this Complaint:

17 ☐ Byetta. Dates of use: _____.

18 ☒ Januvia. Dates of use: On or about December 3, 2012 to in or around October 2013.

19 ☐ Janumet. Dates of use: _____.

20 ☐ Victoza. Dates of use: _____.

21 15. Date of pancreatic cancer diagnosis: On or about August 28, 2013.

22 16. If applicable, date of other injuries alleged in Paragraph 5: N/A
23 _____.

24 17. If applicable, date of death: June 30, 2014.

25 DEFENDANTS NAMED HEREIN

26 (Check Defendants against whom Complaint is made)

27 ☐ Amylin Pharmaceuticals, LLC

28 ☐ Eli Lilly and Company

1 ☒ Merck Sharp & Dohme Corp.

2 ☐ Novo Nordisk Inc.

3 CAUSES OF ACTION

4 (Counts in the Master Complaint brought by Plaintiff(s))

5 ☒ Count I – Strict Liability – Failure to Warn

6 ☒ Count II – Strict Liability – Design Defect

7 ☒ Count III – Negligence

8 ☒ Count IV – Breach of Implied Warranty

9 ☒ Count V – Breach of Express Warranty

10 ☒ Count VI – Punitive Damages

11 ☐ Count VII – Loss of Consortium

12 ☒ Count VIII – Wrongful Death

13 ☒ Count IX – Survival Action

14 ☐ Other Count(s): _____

15 Plead factual and legal basis for any Other Count(s) in separately numbered
16 Paragraphs (beginning with Paragraph 18) that provide sufficient information
17 and detail to comply with the applicable Federal Rules of Civil Procedure.

18 _____
19 _____
20 PRAYER FOR RELIEF AND, AS APPLICABLE,

21 PRAYER FOR RELIEF FOR SURVIVAL AND WRONGFUL DEATH

22 WHEREFORE, Plaintiff(s) pray(s) for relief as set forth in the Master
23 Complaint filed in MDL No. 2452.

24 JURY DEMAND

25 Plaintiff(s) hereby ☒ demands ☐ **does not** demand a trial by jury on all
26 issues so triable.

27 Dated: August 26, 2015

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RESPECTFULLY SUBMITTED,

By: \s\ Matthew R. Lopez
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